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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------------|-------------|--------------------------|---------------------|------------------|
| 10/787,257 | 02/27/2004 | Christian Joachim Keidel | APV31618A | 1296 |
| 7590 | 08/10/2005 | | EXAMINER | |
| STEVENS, DAVIS, MILLER & MOSHER, LLP | | | OMGBA, ESSAMA | |
| Suite 850 | | | ART UNIT | PAPER NUMBER |
| 1615 L Street NW | | | | 3726 |
| Washington, DC 20036 | | | | |

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/787,257 | KEIDEL ET AL. | |
| | Examiner | Art Unit | |
| | Essama Omgba | 3726 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 February 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2/27/04, 3/26/04 & 7/15/05</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed July 15, 2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because there is no translation nor brief explanation of the relevance of the German document listed in the OTHER DOCUMENTS section of the IDS form. It has been placed in the application file, but the information referred to in the OTHER DOCUMENTS section has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Drawings

2. Figures 1, 2 and 3a should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The abstract of the disclosure is objected to because the phrase "The present invention relates to" in line 1 should be deleted. Correction is required. See MPEP § 608.01(b).
4. The disclosure is objected to because of the following informalities: on page 4-line 32, "tale" should read --tail--.

Appropriate correction is required.

Claim Objections

5. Claims 1-22 are objected to because of the following informalities: "Method" in line 1 of claim 1 should read --A method--, and in line 1 of claims 2-18 should read --The method--; in claims 19-22, "Aluminum" in line 1 of claim 19 should read --An aluminum--, and in line 1 of claims 20-22, --The aluminum--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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7. Claims 19-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Applicant's Admitted Prior Art (AAPA).

Applicant, at pages 1-3 of the specification to be known as, discloses an integrated shaped aluminum structure with a base sheet and integral components wherein the base sheet is a fuselage skin of an aircraft and the integral components are parts of stringers, an integrated door or beams or other integral reinforcements.

Applicant should note that "even though product-by-process claims are limited by and defined by the process,

determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985), see MPEP § 2113.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-10 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior art (AAPA) in view of Sanada et al. (US patent 6,606,895).

With regards to claim 1, Applicant, in paragraphs 2-9 and 43 to be known as AAPA, discloses a method for producing an integrated monolithic aluminum structure wherein an aluminum alloy plate provided from an aluminum alloy with a predetermined thickness is shaped to obtain a predetermined shaped structure. AAPA does not disclose heat-treating the shaped structure, however it is known to heat treat a predetermined shaped structure in order to lessen residual distortion, see column 1, lines 55-67, column 2, lines 1 and 2 and column 3, lines 39-41. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have heat-treated the shaped structure of AAPA, in light of the teachings of Sanada et al., in order to lessen residual distortion in the shaped structure. Applicant should note that the limitation of machining the shaped structure to obtain an integrated monolithic structure has not been given any patentable weight since it is not a required step.

For claim 2, column 3, lines 39-41.

For claim 3, see paragraph 6 of the specification.

For claim 4, see column 3, lines 13-21 of Sanada et al.

For claims 5-10, see paragraphs 5, 6 and 22 of the specification.

For claims 12-16, Applicant should note that it is within the general knowledge of one of ordinary skill in the art to provide the shaped structure with an appropriate pre-machining thickness that would satisfy the desired final thickness of the finished structure. Furthermore the heat-treatment disclosed by Sanada et al. would bring the distortion to an acceptable value.

10. Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA/Sanada et al. as applied to claim 1 above, and further in view of Quist et al. (US Patent 4,305,763).

AAPA/Sanada et al. discloses a method for producing an integrated monolithic aluminum structure as shown above except for the claimed composition of the aluminum alloy. However Quist et al. teaches a composition of aluminum alloy within Applicant's claimed range, see column 2, lines 4-18. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have used an aluminum alloy with the claimed composition since it has been held that "a prior art reference that discloses a range encompassing a somewhat narrower claimed range is sufficient to establish a *prima facie* case of obviousness." *In re Peterson*, 315 F.3d 1325, 1330, 65 USPQ2d 1379, 1382-83 (Fed. Cir. 2003), see MPEP § 2144.05.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgbia whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F 9-6:30, 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Essama Omgbा
Primary Examiner
Art Unit 3726

eo

August 6, 2005